IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 3476 OF 2005
IN
CRIMINAL APPEAL NO. OF 2005

The State of Maharashtra ....Applicant

V/s.
Mohan Prabhakar Belvalkar & Ors. ...Respondents

Mr.Y.S. Shinde APP for the State/Applicant.
Mr.M.S. Mohite for Respondent No.1 to 3.

CORAM : V.M. KANADE, J.
DATED : 17th SEPTEMBER, 2007.

P.C:-

1. Heard learned APP for the State and learned counsel for the Respondents.

2. State has preferred this application for leave to file an appeal against acquittal, challenging the order passed by the JMFC, A/c. Linked, Pune, who by his judgment and order dated 22/11/2004 was pleased to acquit the Respondents for the offences punishable U/s.143, 144, 147, 148, 149, 341, 452, 448, 323, 504, 506 of IPC.

3. It is case of the prosecution that on 23/01/1984, Complainant had purchased immovable property from the previous owners/Respondents

herein for a total consideration of Rs.10 lacs and, thereafter, had issued a public notice for the sale of said property which was objected by the Respondents. Thereafter, they forcibly entered into the said premises after snatching key from two Security Guards who were posted there. Therefore, a complaint was lodged. Investigation was carried out by the CBI, Pune. Statement of witnesses were recorded and chargesheet was filed. The Trial Court after appreciating evidence on record, came to the conclusion that the prosecution has not established its case beyond reasonable doubt and, therefore, acquitted the Respondents.

4. Learned APP for the State submitted that the Trial Court had not examined documentary evidence on record and on the basis of oral evidence, the Trial Court had acquitted the Accused.

5. Learned Counsel for the Respondents, on the other hand, invited my attention to the statement of witnesses who were examined by the prosecution, who had, in turn, admitted that the Respondents were in lawful possession of the said premises. He also submitted that key witnesses namely Security Guards were not examined by the prosecution. Therefore, adverse inference was rightly drawn by the Trial Court.

6. I have perused the Record and Proceedings which were called for

by this Court. I have, accordingly, perused the statement of witnesses. In my view, there is no infirmity in the order passed by the Trial Court. View taken by the Trial Court is plausible view and this Court, while exercising its jurisdiction U/s.378 of Cr.P.C. is not expected to substitute its own view to the view taken by the Trial Court and same is found to be plausible view and hence, no case is made out for grant of leave. Leave is refused. Application is dismissed and disposed of accordingly.

V.M. KANADE, J.